

STATE OF MICHIGAN
COURT OF APPEALS

BLUE LAKE FINE ARTS CAMP,

Plaintiff-Appellant,

v

BLUE LAKE TOWNSHIP ZONING BOARD OF
APPEALS, THE FORREST J. HARRIS TRUST,
and WAYNE HARRIS,

Defendants-Appellees.

UNPUBLISHED

March 22, 2007

No. 265782

Muskegon Circuit Court

LC No. 03-042243-AV

Before: O’Connell, P.J., and Murray and Davis, JJ.

MURRAY, J. (*concurring*).

I concur in the lead opinion’s decision to reverse the trial court order and remand this matter to the Blue Lake Township Zoning Board of Appeals for consideration of whether the use variances should be granted to the Harris’s under § 16.3(c)(3) of the Blue Lake Township zoning ordinance and MCL 125.293. See also *Dowek v Oxford Twp*, 233 Mich App 62, 70; 592 NW2d 724 (1998). A remand is necessary because under both the statute and the ordinance it is the township’s Zoning Board of Appeals that has given the discretionary authority to “vary or modify” any zoning ordinance in order to prevent unnecessary hardship. MCL 125.293 (repealed by PA 2006, No. 110, § 702, eff July 1, 2006, but in effect at the time the proceedings that lead to this appeal took place). Thus, although I believe, as did the trial court, that the findings by the Zoning Board of Appeals would more than support a granting of a use variance under MCL 125.293 and § 16.3(c)(3), it is the duty of the Township Zoning Board of Appeals to do so. In my view, if the Zoning Board of Appeals reaches a conclusion that the variance should be granted under the statute and ordinance, there would be adequate factual support in the record to do so. If that is the case, one would hope it would put an end to this case which is now suffering its fourth remand to the Zoning Board of Appeals.

/s/ Christopher M. Murray